

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 101—Record Keeping and Record Retention

PROPOSED AMENDMENT

12 CSR 10-101.800 Record Keeping and Record Retention

Purpose: Sections 144.320 and 144.330, RSMo establish requirements for taxpayers' recordkeeping related to sales and use tax and the department's right to examine those records. This rule explains the taxpayer's responsibility for maintaining and retaining books, records, and other sources of information, including records maintained electronically through a computer or other imaging systems.

(1) In general, a taxpayer must maintain all records that are necessary to determine its sales and use tax liability under Missouri law. The taxpayer must provide all records requested by the department to make this determination.

(2) Definition of Terms:

(A) Electronic data interchange or EDI - the computer-to-computer exchange of business transactions in a standardized, structured, electronic format.

(B) Hard copy - any documents, records, reports or other data printed on paper.

(C) Storage-only imaging system - a system of computer hardware and software that provides the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

(3) Basic Application:

(A) A taxpayer must retain and provide to the department on request records including but not limited to: (i) financial statements; (ii) federal and state income tax returns, including schedules or working papers used in connection with their preparation; (iii) books of account; and (iv) bills, receipts, invoices, cash register tapes, contracts, purchase orders, exemption certificates or other documents of original entry that contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, and shipping detail.

(B) If a taxpayer retains records in both electronic and hard copy formats, the taxpayer must make the electronic records available to the director upon request. A taxpayer who does not create electronic records in the ordinary course of business is not required to construct such records for tax purposes.

(C) A taxpayer must be able to demonstrate the relationship between its records and its tax returns and the process employed, including the internal controls used, to ensure the integrity and accuracy of its records.

- (D) A taxpayer must provide hard copies of electronic, microfilm, microfiche or storage-only imaging records at the time of examination for the department's use upon request.
- (E) A taxpayer must preserve its records for at least three years from the date an original, additional or amended return has been filed. If a taxpayer does not file a required return, the department may request records for non-filed tax periods.
- (F) Electronic records must contain transaction level detail to verify tax compliance. If the electronic records do not provide transaction level detail, the department may require additional documentation.
- (G) A taxpayer relying on electronic records must maintain and provide to the department: (i) record formats or layouts; (ii) field definitions (including the meaning of all codes used to represent information); (iii) file descriptions (e.g., data set names); and (iv) a detailed chart of accounts and account descriptions.
- (H) For electronic records maintenance, the department accepts the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, including the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. (The NARA standards are at 36 Code of Federal Regulations, Part 1234, as amended).
- (I) A taxpayer relying on microfilm, microfiche or other storage-only imaging systems instead of original hard copy records must maintain documentation establishing the procedures for converting the documents and for reliable identification, processing, storage, and preservation of the documents. All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the retrieval of any particular record.
- (J) When a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method that allows the department to interpret the coded information.

(4) Example

- (A) A taxpayer using EDI technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information). Therefore, the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the department. The taxpayer's records sufficiently document the transactions.

**FISCAL NOTE
PUBLIC COST**

I. RULE NUMBER

Rule Number and Name:	12 CSR 10-101.800 Record Keeping and Record Retention
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate.
Missouri Department of Revenue	\$0.00

III. ASSUMPTIONS

The rule does not change existing practice for any taxpayer required to file a return.

**FISCAL NOTE
PRIVATE COST**

IV. RULE NUMBER

Rule Number and Name:	12 CSR 10-101.800 Record Keeping and Record Retention
Type of Rulemaking:	Proposed Rule

V. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by adoption of the proposed rule	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
129,590	Vendors- \$30 cost for record keeping and record retention per sales tax return.	\$16,285,170
41,202	Vendors-\$30 cost to prepare and file a use tax return	\$4,038,600

VII. WORKSHEET

The Department of Revenue receives approximately 542,839 returns per year from approximately 129,590 sales tax filers. The estimated cost record keeping and record retention for a sales tax return per business is \$30 per filed return. The cost to all sales tax filers to comply is $542,839 \times \$30 = \$16,285,170$.

The Department of Revenue receives approximately 542,839 returns per year from approximately 134,620 use tax filers. The estimated cost record keeping and record retention for a sales tax return per business is \$30 per filed return. The cost to all sales tax filers to comply is $134,620 \times \$30 = \$4,038,600$.

VIII. ASSUMPTIONS

The rule does not change existing practice. The department cannot determine the actual costs of taxpayers' record keeping and record retention. The department assumes for purposes of this fiscal note that a vendor's cost is \$30 per return to retain records as required by Section 144.320, RSMo. This cost would be incurred as a result of Sections 144.320 and 144.330, RSMo, regardless of the contents of this rule. The department assumes every business makes at least one sale or purchase per reporting period.

The figures above are based on the assumption that every business makes at least one sale or purchase per reporting period.

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1. Brief, non-technical description of what the rule does.

Provides requirements for taxpayers to maintain and provide sales tax records to the Department.

2. Impetus for rule (audit, suggestion from outside group, litigation, etc.).

Consolidate old rules and place in current Department of Revenue rule format.

3. List of organization, industries, businesses likely to support and oppose rule.

All businesses making retail sales or providing taxable services.

4. Summary of any input discussions with persons/entities outside the Department regarding the rule

There have been no discussions pertaining to the rule with outside persons/entities.

5. Citation to all statutes that touch on the rule, not just the citation to authority required by Chapter 536.

Sections 144.320 and 144.330, RSMo.

6. A statement of what negative consequences would result if a rule were not enacted.

Taxpayers would be unaware of the requirements to maintain records and provide them to the Department

7. A specific example of how the rule would work, if the rule does not include any examples.

Rule includes examples.

Small Business Impact Statement

Proposed Rule 12 CSR 10-101-800 Record Keeping and Record Retention

1. Rule impacts all small businesses making sales of tangible personal property or providing taxable services. This rule impacts all out-of-state small businesses that are registered with the state of Missouri to make retail sales of tangible personal property or provide taxable services in the state. This rule also impacts all in-state small businesses making out-of-state purchases of tangible personal property for their own use. The rule does not impose any new requirements on small businesses and is a consolidation of previously published rules.
2. Any retail establishment making sales of tangible personal property or providing taxable services under this rule will be required to prepare and file a sales tax return for each reporting period. Any out-of-state establishment that is registered to make retail sales of tangible personal property or provide taxable services under this rule will be required to prepare and file a use tax return for each reporting period. Any in-state establishment that is making out-of-state purchases of tangible personal property for its own use under this rule will be required to prepare and file a use tax return for each reporting period.
3. The retail establishment will be required to collect the appropriate amount of tax on its sale of tangible personal property or provision of taxable services, maintain records of those transactions, report sales on an annual, quarterly or monthly basis and remit the tax at the time of reporting. The out-of-state establishment will be required to collect the appropriate amount of tax on its sale of tangible personal property or provision of taxable services, maintain records of those transactions, report sales on an annual, quarterly or monthly basis and remit the tax at the time of reporting. The in-state establishment will be required to report the appropriate amount of tax on its out-of-state purchases of tangible personal property for its own use, maintain records of those transactions, report purchases on a quarterly basis and remit the tax at the time of reporting.
4. There are no monetary costs to the Department of Revenue above and beyond printing and distributing returns and processing those returns as filed by businesses as documented in the public cost fiscal note. There are no monetary benefits to the Department of Revenue from this rule. There are no monetary costs or benefits to other state agencies from this rule.
5. Because the effort to file returns is minimal, no additional efforts have been made to reduce such costs to small business.
6. The rule has been distributed on a list serve that is accessible to small business advocates. Also, the rule does not impose any new requirements on small businesses and is a consolidation of previously published rules.
7. Not applicable.